

MINUTES
LIVESTOCK FACILITY SITING REVIEW BOARD MEETING
August 17, 2007
Room 106, 2811 Agriculture Drive, Madison, WI

Chair Holte called the meeting to order at 10:30 a.m. LFSRB members present were Lee Engelbrecht, Andy Johnson, Bob Selk, Bob Topel, Jerome Gaska, and Fran Byerly. A quorum was present. DATCP staff present were Cheryl Daniels and Lori Price.

Call to order

Holte stated the meeting had been publicly noticed, as required, and presented the agenda for approval. Johnson moved to approve the agenda, and Engelbrecht seconded the motion. The motion passed.

Holte presented the July 20, 2007, meeting minutes for approval. Topel had one correction to page 2, second paragraph from the bottom—he did not make the comment that there was no reference in record of prior problems with the facility, but rather he commented something to the fact that the applicant had no intentions of violating the rule and did follow best management practices. Price will review the audio of the meeting to get the correct wording. Topel moved to approve the minutes as corrected, and Selk seconded the motion. The motion passed.

Larson Acres, Inc. v. Town of Magnolia case, Docket #07-L-01—review final decision for edits and signing

Daniels handed out a revised page 7 in the Findings of Fact. She explained the findings of fact were the board's finding that helped come to the conclusion. For clarification, she had split #5 into two parts because there were two separate findings in the paragraph. At the request of Selk, Daniels corrected the new Paragraph 6 to indicate the application showed the applicant intended to comply with NRCS 590. Also, Topel's name was corrected. The board decided to go through the decision page by page for further corrections.

The board had no changes to pages 1-3 that described the nature of the case by listing when case documents were sent, filed, and received in chronological order. Under #6 in the issues for decision section, the reference to the siting standards was removed but "law" was kept. The board had no changes to the relevant statutes and rules section on pages 4-6. Besides the change to #5 in the findings of fact on pages 7-8, Selk requested that the beginning sentence in the new #7 be shortened for readability. The board then reviewed the conclusions of law on pages 8-9. Number 9 was changed to indicate the town required the applicant to comply with the laws, and #11 was shortened for clarity. The board had no changes to the order on page 10. The board then reviewed the opinion. The board made minor grammatical and wording changes to the opinion. The board also added the statutory reference and an authority clause to the paragraph that gave the board authority to review the conditions in the permit. The last paragraph on the board's opinion was split into separate paragraphs for clarification purposes. The new paragraph

on Condition 1 was changed to reflect the standards provided methods to achieve expected outcomes and the town exceeded its authority when specifying which method the applicant must use. The new Condition 2 paragraph was clarified further to indicate the town could only request information within the scope of the law. Lastly, the board made a change to the new Condition 7 in that it clarified the town's annual review of the permit was outside the control of the applicant. After the review, the board took a lunch break.

After the lunch break, Daniels handed out copies of the revised decision and reviewed the changes made during the earlier discussion. Johnson made a motion to approve the decision as prepared. Topel seconded the motion. The motion passed. Daniels passed around the document for board members' signatures and informed the board that copies of the decision along with notice of appeal rights will be sent to the parties involved in the case.

Evaluation of Board procedures for hearings

- **Position statements longer than 10 pages, and responses filed to positions statements**

The board discussed whether to accept position statements longer than 10 pages. The board made the following decisions in regards to position statements: position statements longer than 10 pages will be returned with a letter attached stating the party has 5 calendar days to resubmit the statement within the 10-page limit; parties have 7 calendar days to reply to the position statement; and no documents will be accepted after the due date.

- **Amicus briefs**

The board decided that amicus briefs would follow the same page length rule as position statements: must be 10 pages or less or will be returned, and 5 calendar days to return brief if longer than 10 pages. Daniels suggested the board hold a conference call before the regular meeting where the case will be discussed to decide on any motions to file or strike the amicus brief(s).

Daniels will make changes to the bylaws to reflect how the board will handle position statements/replies and amicus briefs in future cases. The amended bylaws will be presented to the board for approval the next time they meet.

- **Other board member concerns**

The board decided to address other motions submitted by case parties during the teleconference call on amicus briefs. The board also discussed the fact that public appearances do not take place at meetings because this board deals with appeal cases.

Board schedule and future agenda items

- **September 21, 2007, meeting—possible cancellation**
- **Future schedule 2007—October 19, November 16, December 21**

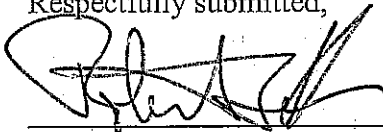
- **Future agenda items**

Daniels reported there were no cases for the board to consider at this time so most likely there will not be a September meeting. Engelbrecht and Byerly had conflicts where they would not be able to attend the September and October meetings respectively. Daniels commented that the board could review the bylaw changes in November unless a case comes up before then that would hasten approval of the bylaws.

Adjourn

Topel moved to adjourn the meeting, and Engelbrecht seconded the motion. The motion passed. The meeting ended at 1:45 p.m.

Respectfully submitted,



Bob Selk, Secretary

10.01.07

Date

Recorder: LP